

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
MEDFORD DIVISION**

**TIMOTHY KINSELLA,**

Plaintiff,

v.

**KATE RICHARDSON, et al.,**

Defendants.

No. 1:24-cv-01217-CL

**ORDER**

---

AIKEN, District Judge.

This case comes before the Court on a Findings and Recommendation (“F&R”) filed by Magistrate Judge Mark Clarke. ECF No. 35. Judge Clarke recommends that Defendants’ Motion to Dismiss, ECF No. 23, be granted and this case dismissed with prejudice.

Under the Federal Magistrates Act, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge’s findings and recommendations, “the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge’s findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress,

in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."). Although no review is required in the absence of objections, the Magistrates Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Id.* at 154. The Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the court should review the recommendation for "clear error on the face of the record."

In this case, Plaintiff has filed objections, captioned "Response to Findings And Recommendation of the District Court." ECF No. 37. The Court has reviewed the F&R and the record and finds no error. The Court therefore ADOPTS the F&R, ECF No. 35. Defendants' Motion to Dismiss, ECF No. 23, is GRANTED. This case is DISMISSED with prejudice and without leave to amend. Final judgment shall be entered accordingly.

It is so ORDERED and DATED this 7th day of April 2025.

/s/Ann Aiken

ANN AIKEN

United States District Judge